

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RALPH WHITTED
aka RACHEL WHITTED,

Plaintiff

v.

RUSSEL SCHENDGOSK,

Defendants

Case No. 3:19-cv-00374-MMD-WGC

ORDER

I. DISCUSSION

Plaintiff, a transgender inmate¹ in the custody of the Nevada Department of Corrections (“NDOC”), has filed a civil rights complaint, as well as three amended complaints. (ECF Nos. 1-1, 5, 10, 16.) The amended complaints appear to be attempts to add new claims and Defendants to the original complaint, rather than replace the original complaint. The Court will not piecemeal Plaintiff’s complaint together from multiple filings. Plaintiff’s operative complaint must contain all claims, defendants, and factual allegations that Plaintiff wishes to pursue in this lawsuit. As such, the Court grants Plaintiff leave to file a fully complete fourth amended complaint within 30 days. If Plaintiff does not file a fully complete amended complaint, the court will only screen her initial complaint (ECF No. 1-1) and will not consider any allegations in Plaintiff’s first, second, and third amended complaints (ECF Nos. 5, 10, 16).

If Plaintiff chooses to file a fourth amended complaint, she is advised that a fourth amended complaint supersedes (replaces) the original complaint, as well as any other previously filed amended complaints, and, thus, the fourth amended complaint must be complete in itself. *See Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (holding that “[t]he fact that a party was named in the original

¹ Plaintiff has filed motions requesting that the Court use her female name, Rachel Whitted, for filings in this action. (ECF Nos. 14, 25.) It appears that Plaintiff intends to change her legal name to Rachel Whitted. (ECF No. 25.) The Court grants Plaintiff’s motion in part. The Court will use Plaintiff’s preferred name and gender pronouns. However, Plaintiff’s legal name must also appear on the Court’s orders.

1 complaint is irrelevant; an amended pleading supersedes the original"); see also *Lacey*
2 *v. Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012) (holding that for claims dismissed
3 with prejudice, a plaintiff is not required to reallege such claims in a subsequent amended
4 complaint to preserve them for appeal). Plaintiff's fourth amended complaint must contain
5 all claims, defendants, and factual allegations that Plaintiff wishes to pursue in this
6 lawsuit. Moreover, Plaintiff must file the fourth amended complaint on this Court's
7 approved prisoner civil rights form, and it must be entitled "Fourth Amended Complaint."

8 **II. CONCLUSION**

9 For the foregoing reasons, IT IS ORDERED that, if Plaintiff chooses to file a fourth
10 amended complaint, Plaintiff will file the fourth amended complaint within 30 days from
11 the date of entry of this order.

12 IT IS FURTHER ORDERED that the Clerk of the Court will send to Plaintiff the
13 approved form for filing a § 1983 complaint, instructions for the same, and a copy of his
14 initial complaint, as well as the first, second, and third amended complaints (ECF Nos. 1-
15 1, 5, 10, 16). If Plaintiff chooses to file a fourth amended complaint, she must use the
16 approved form and he will write the words "Fourth Amended" above the words "Civil
17 Rights Complaint" in the caption.

18 IT IS FURTHER ORDERED that, if Plaintiff does not timely file a first amended
19 complaint, the Court will screen the original complaint (ECF No. 1-1) only and strike
20 Plaintiff's first, second, and third amended complaints (ECF Nos. 5, 10, 16) from the
21 docket.

22 IT IS FURTHER ORDERED that Plaintiff's motions for the Court to use her female
23 name (ECF Nos. 14, 25) are granted in part. The Court will use Plaintiff's preferred name
24 and gender pronouns, but Plaintiff's legal name must also appear on the Court's orders.

25
26 DATED THIS 7th day of August 2020.

27 
28 UNITED STATES MAGISTRATE JUDGE